

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Dennis A. Smith

v.

Civil No. 07-cv-119-SM

Commissioner NH Department
of Corrections, et al

O R D E R

As Chief Judge McAuliffe stated in his preliminary injunction order (2007 WL 3112424 (R.N.H.)) New Hampshire "should take steps to provide totally up-to-date medical records on prisoners being transferred before the failure to do so causes serious injury or death." Surely Smith has already accomplished a significant change at the prison on this issue. However, as Judge McAuliffe went on to point out in his order, Smith is not a "class" representative, cannot show irreparable harm or that he even risks injury. In short, Smith has shown himself capable of handling his own case, but he has not demonstrated a colorable claim for an injunction or any relief other than nominal damages. Lawyers will not willingly spend their time and money on depositions which are not necessary nor on expert witness fees in a case where there is little likelihood of anything more than a

very modest recovery. 28 U.S.C. §1915(d) authorizes a court to request counsel to represent indigents, but it does not authorize a federal court to require an unwilling attorney to represent an indigent litigant in a civil case. The motion (document no. 116) is denied.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: December 11, 2008

cc: Dennis A. Smith, pro se
Danielle Leah Pacik, Esq.